IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER ST.NO.26749 OF 1997

Abdul Latif Ahmedbhai Attar & anr. ... Appellants.
Versus.
Smt.Jainbee Rajjak Attar & ors. ... Respondents.

Mrs.Teja Katdare for the Appellant.

CORAM : ABHAY S. OKA, J.

DATED : 18th January, 2005.

P.C.:

1. Heard learned Counsel appearing for the Appellants/Plaintiffs. By the impugned Judgment and Order dated 5th February 1997, the Application for temporary injunction made by the Appellants/Plaintiffs has been rejected. An Application for review was thereafter filed. The Application for review also came to be rejected. As a result, from the year 1997 there is no interim relief operating in favour of the Appellants.

2. After having heard the learned Counsel appearing for the Appellant, I am satisfied that there is no merit in the Appeal. The learned Judge on consideration of the documents on record has held that the Appellants have failed to prove primafacie case.

3. The order refusing to grant temporary injunction is a discretionary order. There is no perversity in the impugned order. Hence the Appeal is dismissed with no order as to costs.

4. It is obvious that the findings which are recorded by the learned trial Judge in the impugned order are only primafacie finding and the said findings will naturally not bind the learned trial Judge while deciding the suit finally.

Judge.